

# Agenda Item # 11.E.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR  
**BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**  
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DATE: May 8, 2009

TO: Board Members

FROM: Cheryl Anderson, M.S., R.N.  
Nursing Education Consultant

SUBJECT: Walter Jay M.D. Institute Vocational Nursing Program – Consideration of Request to Replace Class and Accreditation Status (Director: Doreen Tan, Los Angeles, Los Angeles County, Private School)

The director of the Walter Jay M.D. Institute Vocational Nursing Program requested Board approval to admit a full-time class of 30 students on May 25, 2009, with an anticipated graduation of July 1, 2010, to **replace** students who graduated in November 2008.

The Executive Officer declined to act on the program's request for students due to prior violations which remain uncorrected and a new violation of section 2530(l) of the California Code of Regulations, relative to program pass rates on the licensure examination.

## **History of Prior Board Actions**

- On February 3, 2006, the Executive Officer approved the Walter Jay M.D. Institute to begin a vocational nursing program with an initial class of 40 students on March 1, 2006 only, and approved the program curriculum for 1588 hours, including 634 theory, and 954 clinical hours.
- On February 6, 2006, the director notified Board staff that commencement of the first class was delayed to May 2, 2006, with a projected graduation date of June 29, 2007.
- On April 12, 2007, the Executive Officer approved initial full accreditation for the Walter Jay M.D. Institute Vocational Nursing Program for the period April 12, 2007, through April 11, 2011, and issued a certificate accordingly. The Executive Officer also approved the program's request to admit a full-time class of 45 students to commence August 6, 2007 only, to replace students graduating June 29, 2007, thereby increasing class size. Additionally, the Executive Officer approved the program's request to admit 45 students into an evening part-time program starting August 6, 2007 only, with a projected graduation date of September 25, 2008, thereby increasing the frequency of admissions.

- On March 11, 2008, Board staff contacted the Walter Jay M.D. Institute Vocational Nursing Program relative to its low pass rate on the NCLEX/PN<sup>®</sup>. The director was requested to evaluate the program's admission standards, teaching effectiveness, and other factors that may be affecting the students' performance.
- **On July 8, 2008, the program director resigned.**
- **On July 22, 2008, a new program director was approved.**
- On September 12, 2008, the Advisory Committee recommended placement of the Walter Jay M.D. Institute Vocational Nursing Program on provisional accreditation for a two-year period, September 12, 2008, through September 11, 2010, due to six (6) violations of the Vocational Nursing Rules and Regulations and issued a notice identifying specific areas of noncompliance and requirements for correction as referenced in section 2526.1(e) of the Vocational Nursing Rules and Regulations. Additionally, the Advisory Committee deferred consideration of the program's request to admit a full-time class of 50 students, to a later date when sufficient resources are available and verifiable (see Attachment A).
- On September 26, 2008, the Advisory Committee's recommendations were adopted by the designee of the Director of the Department of Consumer Affairs (DCA).
- On October 1, 2008, Bureau staff forwarded written notification relative to the change in the program's accreditation status, specific areas of noncompliance, and requirements for correction as referenced in section 2526.1(e) of the Vocational Nursing Rules and Regulations
- On November 13, 2008, Bureau staff notified the program that the annual average pass rates for Walter Jay M.D. Institute Vocational Nursing Program had fallen below 10 percentage points of the state annual average pass rate for four (4) consecutive quarters. Bureau staff requested an analysis of the program and written plan for improving program pass rates.
- On January 15, 2009, Board staff requested the following information required to process the program's request to admit a replacement class:
  1. All program actions taken to correct the six (6) violations as specified in the consultant's report to the Advisory Committee, dated September 2, 2008.
  2. List of current faculty.
  3. Clinical rotation calendar or plan, including the following information.
    - a. Names and phone numbers for all currently approved clinical facilities;
    - b. Dates of Board approval per facility;
    - c. Type or classification of clinical experience;
    - d. Number of students authorized by the facility; and
    - e. Number of students assigned.

4. Current and projected student enrollment including the August 2007 classes that graduated in November 2008.
  5. Clinical rotation calendar for Maternity and Pediatric clinical rotations.
  6. Comprehensive plan to address the program's low performance statistics on the NCLEX/PN based on a full analysis of all program elements including the curriculum, faculty, facilities, resources, and other variables that may impact student achievement.
- On January 20, 2009, the program submitted correspondence and supporting documents addressing actions taken to address previously identified violations. Additionally, the program submitted an analysis of existing program elements and a plan for improving the pass rates of program graduates on the NCLEX/PN®.
  - On February 27, 2009, the Executive Officer deferred a decision on the program's request to admit a full-time class of 50 students to replace students who graduated in November 2008 due to the program's provisional accreditation status and the program's annual average pass rates on the NCLEX/PN®.
  - On March 4, 2009, the program was notified that the Executive Officer had deferred a decision on the program's request for class admission. Additionally, the program was informed that the request had been placed on the May 22, 2009, Board Meeting agenda.
  - On March 5, 2009, the program submitted email correspondence relative to actions taken in response to program need.
  - On March 18, 2009, Board staff notified the program that its annual average pass rates had fallen below 10 percentage points of the state average pass rate for five (5) consecutive quarters.
  - On April 8, 2009, Board staff requested program information relative to current and projected enrollment, approved faculty, approved clinical facilities, and a clinical rotation calendar.
  - On April 10, 2009, Board staff received program correspondence per fax relative to current and projected enrollment, approved faculty, approved facilities, and clinical rotations.
  - On April 16, 2009, Board staff received program correspondence per fax relative to prior correspondence and a "Checklist for Faculty Termination."

### **Enrollment**

The program must request Board approval prior to the admission of each class. The pattern of admissions for current and proposed classes is seen in the enrollment table below.

The following table represents **projected** student enrollment based on the proposed class start. The table indicates **a maximum enrollment of 85 students** from May 2006 through May 2009.

ENROLLMENT DATA				
CLASS DATES		#Students Admitted	#Students Current or Completed	Total Enrolled
Start	Complete			
5/06		39	31	<b>31</b>
	7/07 (5/06 class)		- 31	31 – 31 = <b>0</b>
8/07 (FT Day)		45	41	0 + 41 = <b>41</b>
8/07 (PT Evening)		45	44	41 + 44 = <b>85</b>
	11/08 (8/07 FT Day)		- 41	85 - 41 = <b>44</b>
	11/08 (8/07 PT Evening)		- 44	44 – 44 = <b>0</b>
5/09 (proposed)		30		0 + 30 = <b>30</b>

### **Licensing Examination Statistics**

The following statistics, furnished by Pearson VUE, and published by the National Council of State Boards of Nursing as "Jurisdictional Summary of All First-Time Candidates Educated in Member Board Jurisdiction," for the period October 2007 through March 2009, specify the pass percentage rates for graduates of Walter Jay M.D. Institute Vocational Nursing Program on the National Council Licensure Examination for Practical/Vocational Nurses (NCLEX-PN®).

NCLEX-PN® Licensure Examination Data						
Quarterly Statistics					Annual Statistics*	
Quarter	# Candidates	# Passed	% Passed	State Quarterly Pass Rate	Program Annual Average Pass Rate	State Annual Average Pass Rate
Oct - Dec 2007	17	11	65%	76%	65%	76%
Jan - Mar 2008	5	0	0%	75%	50%	75%
Apr - Jun 2008	1	0	0%	70%	48%	74%
July - Sep 2008	2	0	0%	74%	44%	74%
Oct - Dec 2008	1	1	100%	73%	11%	73%
Jan – Mar 2009	27	10	37%	70%	35%	72%

\*The Annual Pass Rate changes every quarter. It is calculated by dividing the number of candidates who passed during the current and previous three quarters by the number of candidates who tested during the same period.

Based on the most recent data available (January – March 2009), the program's annual average pass rate is 35%. The California annual average pass rate for graduates from accredited vocational nursing programs who took the NCLEX-PN® for the first time during the same period is 72%. The annual average pass rate for the Walter Jay M.D.

Institute Vocational Nursing Program is 37 percentage points below the state annual average pass rate.

### **Faculty and Facilities**

Section 2534(d) of the Vocational Nursing Rules and Regulations states:

"For supervision of clinical experience, there shall be a maximum of 15 students for each instructor."

The total number of Board-approved faculty is fifteen (15). Thirteen (13) instructors are available to teach in the clinical area. For a maximum enrollment of 85 students, six (6) instructors are needed. Therefore, the number of clinical faculty is adequate for the proposed enrollment.

Section 2534(b) of the Vocational Nursing Rules and Regulations states:

"Schools shall have clinical facilities adequate as to number, type, and variety of patients treated, to provide clinical experience for all students in the areas specified by Section 2533. There must be available for student assignment, an adequate daily census of patients to afford a variety of clinical experiences consistent with competency-based objectives and theory being taught."

The program's clinical facilities are adequate as to type and variety of patients treated to enable current and proposed students to meet clinical objectives in accordance with Section 2534(b) of the Vocational Nursing Rules and Regulations. This information has been verified by the consultant.

### **Other Considerations**

On February 27, 2009, the Executive Officer considered the program's request for approval to admit a full-time class of 50 students to replace students who graduated in November 2009. A decision on the program's request was deferred to the Board itself. In reaching that decision, the following factors were considered.

#### **1. DCA Director's Decision of September 26, 2008.**

On September 12, 2008, the Advisory Committee recommended placement of the program on provisional accreditation for a two year period (September 12, 2008, through September 11, 2010) due to violations of the Vocational Nursing Rules and Regulations. Additionally, the Committee recommended that a decision on the program's request for an additional full-time class of 50 students be deferred until the program demonstrated sufficient resources for the proposed enrollment. On September 26, 2008, those recommendations were adopted by the designee of the Director of the Department of Consumer Affairs.

## **2. Program's Annual Average Pass Rate on the NCLEX/PN®.**

As evidenced by the previously reported statistics, the program's annual average pass rates on the National Council Licensure Examination for Practical/Vocational Nurses (NCLEX/PN®) have consistently shown regulatory non-compliance from Quarter 4, 2007 (65%) to Quarter 1, 2009 (35%). The program's current annual average pass rate is 37 percentage points below the state annual average pass rate. Although this violation might not independently warrant provisional accreditation, it is a new factor in reviewing the program's compliance with Article 5 of the California Code of Regulations.

On March 4, 2009, the assigned consultant mailed correspondence advising the program director of the Executive Officer's decision (see Attachment B).

In preparation for this report, the consultant requested additional information relative to specific actions taken by the director to correct violations identified in the consultant's report to the Advisory Committee dated September 2, 2008. On March 5, 2009, April 10, 2009, and April 16, 2009, the program director submitted additional information. As described therein, the following actions were taken in response to violations identified in the Board's October 1, 2008 Notice.

### **Section 2534 (a) of the California Code of Rules and Regulations states:**

**"Schools shall apply on a form provided by the Board for approval of each clinical facility prior to use."**

**Violation #1:** As specified in the consultant's report to the Advisory Committee dated September 2, 2008, the program assigned students to clinical rotations in facilities that had not been approved by the Board (see Attachment A).

**Correction #1:** This violation has been **corrected**. The program has proposed student clinical rotations at clinical facilities previously approved by the Board that are consistent with the Board-approved curriculum. Facility representatives have confirmed the sufficiency of clinical experience to facilitate students' achievement of approved objectives.

### **Section 2527(b) states:**

**"A school shall report to the Board within ten days of the termination of a faculty member."**

**Violation #2:** As specified in the September 2, 2008, report, the program failed to notify the Board of the termination of multiple instructors (see Attachment A).

## **Plan of Correction #2:**

This violation has **not** been **corrected**. On April 15, 2009, the consultant requested the director to develop and submit a process or procedure that would ensure Board notification within ten (10) days of faculty terminations, thereby preventing reoccurrence of this violation. In response, the director submitted a document titled, "LVN Instructor Book Sign Out." The submitted document is completed by program instructors upon receipt of program materials. It does not address procedures to be completed by the program upon termination of faculty.

## **Section 2534 (d) states:**

**"For supervision of clinical experience, there shall be a maximum of 15 students for each instructor."**

**Violation #3:** The September 2, 2008, report states that the program assigned sixteen (16) students in Term II to Temple Community Hospital. One (1) instructor and one (1) teacher assistant were assigned. Additionally, the program assigned sixteen (16) students in Term II to Integrated Nursing and Rehabilitation Center. One (1) instructor and one (1) teacher assistant were assigned (see Attachment A).

**Correction #3:** This violation has been **corrected**. The program has hired five (5) experienced instructors. Each Teacher Assistant is assigned to assist an approved and experienced instructor in the skills lab and clinical area only.

## **Section 2527 (a) states:**

**"The Board shall require such reports by schools and conduct such investigations as necessary to determine whether or not accreditation will be continued."**

**Violation #4:** As stated in the September 2, 2008 report, the consultant requested the program to submit documentation of the faculty/student assignments for all currently enrolled students for each term of the program. Cell phone numbers for each instructor were also requested. The program failed to submit the requested documents (see Attachment A).

Additionally, the program failed to submit the required annual report due October 1, 2008.

## **Plan of Correction #4:**

This violation has **not** been **corrected**. The program has submitted Faculty/Student Clinical Assignments for each term in the program.

The program has not submitted the annual report that was due October 1, 2008.

**Section 2527(c) states:**

**“A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for denial or revocation of accreditation or provisional accreditation.”**

**Violation #5:** As stated in the September 2, 2008, report, the assigned consultant identified material misrepresentations of fact in information and documents submitted to the Board on April 9, 2008. These misrepresentations addressed the assignment of instructors and teacher assistants and the use of teacher assistants to provide theory instruction in violation of section 2530 (d) (see Attachment A).

**Correction #5:** This violation has been **corrected** (see Correction #3).

Additionally, the program director reports the following actions have been completed.

1. All instructors have been evaluated. To maximize student achievement with available staff, instructors were reassigned consistent with their capabilities.
2. Admission requirements have been modified to ensure the admission of students at a level of academic preparation consistent with the curriculum.
3. The following prerequisite classes have been developed and implemented to better prepare students for the rigors of the curriculum.
  - a. Medical Terminology.
  - b. Basic Mathematics and Dosage Calculation.
  - c. Anatomy & Physiology.
  - d. Critical Thinking.
4. A private consultant has been secured to provide intensive NCLEX preparatory classes. These eight hour classes are held each weekend.

The following violation was identified after the Notice of Change in Accreditation Status, dated October 1, 2008, was mailed out:

**Section 2530(l) of the Vocational Nursing Regulations states:**

**“The program shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the state average pass rate for first time candidates of accredited vocational nursing schools for the same period.**

- (1) Failure to maintain the required yearly average minimum pass rate for two years or eight consecutive quarters may be cause to place a program on provisional accreditation.”**



**Violation #6:** The program's annual average pass rate has been more than ten (10) percentage points below the state average annual pass rate for six (6) consecutive quarters.

**Plan of Correction #6:**

This violation is **not corrected**. The violation will be corrected when the program's pass rates improve and are consistent with regulatory requirements.

As noted previously, 85 students completed the program in November 2008. Based on first quarter of 2009 NCLEX/PN<sup>®</sup> data, 27 of these students tested; nine (9) passed (33%).

**Recommendations:**

1. Upon acceptable proof of correction of violations noted in the Notice of Change in Accreditation Status, dated October 1, 2008, authorize the Executive Officer to approve the Walter Jay M.D. Institute Vocational Nursing Program's request to admit a **replacement** class of 30 students on May 25, 2009 only, with an anticipated graduation date of April 25, 2010.
2. Issue a Revised Notice of Noncompliance and Requirements for Correction to reflect:
  - a. Prior violations shall be corrected within two (2) weeks of the date of the revised notice; and
  - b. New violation relative to the program's annual average pass rate on the National Council Licensure Examination for Practical/Vocational Nurses (NCLEX/PN<sup>®</sup>).
  - c. Compliance with all accreditation standards is required.
3. Require the program to submit a follow-up report in 11 months, but no later than March 1, 2010, evaluating the effectiveness of any corrective actions taken. The report must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis.
  - a. Admission Criteria.
  - b. Screening and Selection Criteria.
  - c. Terminal Objectives.
  - d. Curriculum Objectives.
  - e. Instructional Plan.
  - f. Theory and Clinical Objectives for Each Course.
  - g. Lesson Plans for Each Course.
  - h. Textbooks.
  - i. Attendance Policy.

- j. Remediation Policy.
- k. Evaluations of Theory and Clinical Faculty.
- l. Evaluations of Theory Presentations.
- m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
- n. Evaluation of Student Achievement.

**Rationale:** At present, the program has sufficient resources to support the number of proposed students; however, the Board is extremely concerned relative to the program's non-compliance with regulations requiring the submission of reports. Of equal concern is the program's non-compliance with pass rate regulations on the NCLEX/PN<sup>®</sup> for the last six (6) quarters. The current program director has taken several steps to address the pass rates of program graduates. These students completed program requirements in November 2008. Of the students from this class that tested in Quarter 1, 2009, only 33% passed. As such, the effectiveness of the director's actions is in question at this time.

Attachment A – Consultant's report to Advisory Committee, dated September 2, 2008.  
Attachment B – Board correspondence, dated March 4, 2009.